

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION**

MACKENZIE MENDOZA,	)	CAUSE NO. 2:22-cv-00381
Individually and OBO	)	
B.M.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
WAL-MART STORES EAST, INC.,	)	
WAL-MART STORES EAST, LP,	)	
WALMART INC. and	)	
WAL-MART REAL ESTATE	)	
BUSINESS TRUST,	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Robert B. Thornburg, counsel for defendant, Wal-Mart Stores East, LP (also incorrectly sued as Wal-Mart Stores East, Inc., Walmart, Inc. and Wal-Mart Real Estate Business Trust), states:

1. On January 7, 2022, plaintiff filed her Complaint for Damages against defendant Wal-Mart Stores East, LP (also incorrectly identified as Wal-Mart Stores East, Inc., Walmart, Inc. and Wal-Mart Real Estate Business Trust), in the Vigo County Superior Court No. 2 of Indiana, under Cause No. 84D02-2201-CT-000141.

2. On August 9, 2022, plaintiff filed her Amended Complaint for Damages against defendant Wal-Mart Stores East, LP (also incorrectly identified as Wal-Mart Stores East, Inc., Walmart, Inc. and Wal-Mart Real Estate Business Trust).

3. Wal-Mart Stores East, LP, is a Delaware limited partnership, of which WSE Management, LLC is the general partner, and WSE Investment, LLC is the limited partner. The

sole member of both WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC, an Arkansas limited liability company whose sole member is Walmart, Inc. The principal place of business for all entities mentioned is Bentonville, Arkansas. Walmart, Inc., a Delaware corporation, is a publicly traded company on the New York Stock Exchange and traded under the symbol WMT. The principal place of business for Walmart, Inc. is Bentonville, Arkansas. No publicly traded entity owns more than 10% of the company. Thus, for purposes of diversity jurisdiction, Wal-Mart Stores East, LP is a citizen of Delaware and Arkansas.

4. Wal-Mart Stores East, Inc. is the former name of an entity that is now a limited liability company known as Wal-Mart Stores East, LLC. The sole member of Wal-Mart Stores East, LLC is Walmart, Inc. As noted immediately above, Walmart, Inc. is Delaware corporation. Its principal place of business is in Bentonville, Arkansas, it has no parent corporation, and no publicly traded entity owns more than 10% of the company.

5. Wal-Mart Real Estate Business Trust is a Delaware statutory trust of which the sole holder of beneficial shares and sole member for removal purposes is Wal-Mart Property Co. Wal-Mart Property Co. is a Delaware corporation with its principal place of business in Arkansas. Accordingly, for the purposes of removal, Wal-Mart Real Estate Business Trust is a citizen of Delaware and Arkansas.<sup>1</sup>

6. Plaintiff and her minor child are citizens of the State of Indiana.

7. The matter in controversy exceeds \$75,000.00, exclusive of interests and costs as Plaintiff alleges B.M. suffered significant personal injury and restriction of his daily activities due to those injuries. In addition, Plaintiff's counsel was asked to stipulate that the amount in

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<sup>1</sup> The citizenship of a statutory trust is the citizenship of its members, which includes its shareholders. Americold Realty Tr. V. Conagra Foods, Inc., 136 S. Ct. 1012, 1016 (2016); Bynane v. Bank of New York Mellon for CWMBS, Inc. Asset-Backed Certificates Series 2006-24, 866 F.3d 351, 358 (5th Cir. 2017); U.S. Bank Tr., N.A. v. Dupre, 615CV0558LEKTWD, 2016 WL 5107123, at \*4 (N.D.N.Y. Sept. 20, 2016) (finding that a Delaware statutory trust "seems precisely like the type [of trust] considered by the Supreme Court in Americold").

controversy did not exceed \$75,000 and refused to do so. In addition, this action does not arise under the Workmen's Compensation laws of any state; is not brought against a common carrier or its receivers or trustees; and does not arise under 45 U.S.C. §§ 51-60. Therefore, this cause is removable to this Court under 28 U.S.C. § 1441(b).

8. This Notice of Removal is being filed with this Court within 30 days after receipt of information, specifically plaintiff's interrogatory answers and responses to requests for production of documents, that this case is now applicable for removal to this Court under 28 U.S.C. § 1446(b)(3).

9. Copies of all process, pleadings, and orders served upon petitioner in the state court action are attached hereto. Promptly hereafter, written notice will be given to all adverse parties and to the Clerk of the Vigo County Superior Court No. 2 of Indiana, that this Petition for Removal is being filed with this Court.

WHEREFORE, defendant prays that the entire state court action, under Cause No. 84D02-2201-CT-000141, now pending in the Vigo County Superior Court No. 2 of Indiana, be removed to this Court for all further proceedings.

Respectfully submitted,

FROST BROWN TODD LLC

By: /s/ Robert B. Thornburg

Robert B. Thornburg, #19594-02  
*Attorneys for Defendant Wal-Mart Stores  
East, LP (also incorrectly sued as Wal-Mart  
Stores East, Inc., Walmart Inc and Wal-  
Mart Real Estate Business Trust)*

**CERTIFICATE OF SERVICE**

Service of the foregoing was made electronically this 2nd day of September, 2022, upon the following:

Ralph Hoover  
CRAVEN, HOOVER & BLAZEK, P.C.  
7550 South Meridian Street, Suite C-1  
Indianapolis, IN 46217  
[rhoover@chblawfirm.com](mailto:rhoover@chblawfirm.com)  
*Attorney for Plaintiff*

/s/ Robert B. Thornburg

FROST BROWN TODD LLC  
201 N Illinois Street, Suite 1900  
PO Box 44961  
Indianapolis, IN 46244-0961  
317-237-3800  
Fax: 317-237-3900  
[rthornburg@fbtlaw.com](mailto:rthornburg@fbtlaw.com)

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